

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

Christine Moore,
Plaintiff

vs

Postal Service, et. al.
Defendants

Case No. C-1-04-521
(Spiegel, J.)
(Hogan, M.J.)

REPORT AND RECOMMENDATION

Plaintiff filed this action pro se under 42 U.S.C. §2000e, alleging a employment discrimination. (Doc. 2).

On December 17, 2004, the Court ordered Plaintiff to show cause why the Complaint should not be dismissed against Defendants for failure of service. (Doc. 11). Thereafter, on January 10, 2005, counsel entered an appearance on behalf of Plaintiff (Doc. 12), and filed a Response to Order to Show Cause in which Plaintiff requests additional time to perfect service on Defendants (Doc. 12). The Court, therefore, found that good cause had been shown why Plaintiff's Complaint should not be dismissed against Defendants for failure of service. The Court then granted Plaintiff thirty additional days in which to perfect service on all proper parties to this action.

Federal Rule of Civil Procedure 4 provides that, "[i]f service is not waived, the person effecting service shall make proof thereof to the court." FED. R. CIV. P. 4(l). To date, no proof of service has been filed with the Court.

District courts have the inherent power to *sua sponte* dismiss civil actions for want of prosecution to "manage their own affairs so as to achieve the orderly and expeditious disposition of cases." *Link v. Wabash R.R.*, 370 U.S. 626, 630-31

(1962). Failure of a party to respond to an order of the court warrants invocation of the Court's inherent power. *See* FED. R. CIV. P. 41(b).

IT IS THEREFORE RECOMMENDED THAT:

1. The Complaint in this case filed by Plaintiff be DISMISSED WITHOUT PREJUDICE for lack of prosecution and failure to abide by a Court order; and
2. The Court should certify pursuant to 28 U.S.C. § 1915(a) that an appeal of its Order dismissing the action is not taken in good faith and that Plaintiffs be denied leave to appeal in forma pauperis. Plaintiffs would remain free to apply to proceed in forma pauperis in the Court of Appeals. *Coppedge v. United States*, 369 U.S. 438, 445 (1962).

SO ORDERED.

Date: 2/24/05



Timothy S. Hogan
United States Magistrate Judge

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

**Christine Moore,
Plaintiff(s),**

v.

**Postal Service (U.S.), et al.,
Defendant(s).**

**CASE NO. 1:04cv0521
(Spiegel, Sr., J.; Hogan, M.J.)**

NOTICE

Attached hereto is the Report and Recommended decision of the Honorable Timothy S. Hogan, United States Magistrate Judge, which was filed on 2/25/2005. Any party may object to the Magistrate's findings, recommendations, and report within (10) days after being served with a copy thereof or further appeal is waived. *See United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). Such parties shall file with the Clerk of Court, and serve on all Parties, the Judge, and the Magistrate, a written Motion to Review which shall specifically identify the portions of the proposed findings, recommendations, or report to which objection is made along with a memorandum of law setting forth the basis for such objection, (such parties shall file with the Clerk a transcript of the specific portions of any evidentiary proceedings to which an objection is made).

In the event a party files a Motion to Review the Magistrate's Findings, Recommendations and Report, all other parties shall respond to said Motion to Review within ten (10) days after being served a copy thereof.